IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 27TH SEPTEMBER 2007 / 5TH ASWINA 1929

Bail Appl..No. 5979 of 2007()

CC.80/2007 of J.M.F.C.-II,NEYYATTINKARA
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: PETITIONER/2ND ACCUSED

IBRAHIM, S/O.KURUKKI KHADER,
AGED 27, THEKETHERUVU VEEDU,
POOVAR DESOM, THIRUPURAM VILLAGE.

BY ADV. SRI.S.MOHAMMED AL RAFI

RESPONDENTS:

STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY P.P. SRI.JAI GEORGE.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 27/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

B.A. No. 5979 OF 2007

Dated this the 27th day of September, 2007

ORDER

Application for anticipatory bail. The petitioner faces indictment in a prosecution for offences punishable under Secs.3 and 4 of the Explosive Substances Act. A crime was registered. Investigation is complete. Final report has been filed. Cognizance has also been taken. The matter is pending before the learned Magistrate as a Calendar Case. The petitioner was not arrested in the course of investigation. After cognizance was taken also, the petitioner has not so far appeared before the learned Magistrate. Reckoning him as an absconding accused, the learned Magistrate has issued coercive processes against the petitioner. The petitioner finds a warrant of arrest issued by the learned Magistrate chasing him.

2. According to the petitioner, he is absolutely innocent. His absence was not wilful or deliberate. He had not received any notice or information from the court about the pendency of the case. The petitioner, in these circumstances, wants to surrender before the learned Magistrate and seek regular bail. The petitioner apprehends that his application for regular bail may not be considered by the learned Magistrate on merits in accordance with law and expeditiously. It is, in these circumstances, that the petitioner has come to this Court for a direction to the learned Magistrate to release him on bail when he appears before the learned Magistrate.

3. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider the petitioner's application for regular bail on merits in accordance with law and expeditiously. No special or specific directions appear to be necessary. Every court must do the same. Sufficient general directions on this aspect have already been issued in the decision reported in **Alice George v. Deputy Superintendent of Police** (2003 (1) KLT 339).

4. In the result, this bail application is dismissed; but with the observation that if the petitioner surrenders before the learned Magistrate and seeks bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously – on the date of surrender itself.

Sd/-

(R. BASANT, JUDGE)

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P.S. to Judge